

§ 138.120

Certificate during the preceding six-month reporting period and indicating which vessels, if any, are tank vessels.

§ 138.120 Certificates, denial or revocation.

(a) The Director, NPFC, may deny a Certificate when an applicant—

(1) Willfully or knowingly makes a false statement in connection with an Application or other submission or filing under this subpart for an initial or renewal Certificate;

(2) Fails to establish acceptable evidence of financial responsibility as required by this subpart;

(3) Fails to pay the required Application or certification fees;

(4) Fails to comply with or respond to lawful inquiries, regulations, or orders of the Coast Guard pertaining to the activities subject to this subpart; or

(5) Fails to timely file with the Director, NPFC, required statements, data, notifications, or affidavits.

(b) The Director, NPFC, may revoke a Certificate when a certificant—

(1) Willfully or knowingly makes a false statement in connection with an Application for an initial or a renewal Certificate, or in connection with any other filing required by this subpart;

(2) Fails to comply with or respond to lawful inquiries, regulations, or orders of the Coast Guard pertaining to the activities subject to this subpart; or

(3) Fails to timely file with the Director, NPFC, required statements, data, notifications, or affidavits.

(c) A Certificate is immediately invalid, and considered revoked, without prior notice, when the certificant—

(1) Fails to maintain acceptable evidence of financial responsibility as required by this subpart;

(2) Is no longer the responsible operator of the vessel or fleet in question; or

(3) Alters any copy of a Certificate.

(d) The Director, NPFC, will advise the applicant or certificant, in writing, of the intention to deny or revoke a Certificate under paragraph (a) or (b) of this section and will state the reason for the decision. Written advice from the Director, NPFC, that an incomplete Application will be considered withdrawn unless it is completed with-

in a stated period, is the equivalent of a denial.

(e) If the intended revocation under paragraph (b) of this section is based on failure to timely file required financial statements, data, notifications, or affidavits with the Director, NPFC, the revocation is effective 10 days after the date of the notice of intention to revoke, unless, before the effective date of the revocation, the certificant demonstrates to the satisfaction of the Director, NPFC, that the required documents were timely filed or have been filed.

(f) If the intended denial is based on paragraph (a)(1) or (a)(4) of this section, or the intended revocation is based on paragraph (b)(1) or (b)(2) of this section, the applicant or certificant may request, in writing, an opportunity to present information for the purpose of showing that the applicant or certificant is in compliance with the subpart. The request must be received by the Director, NPFC, within 10 days after the date of the notification of intention to deny or revoke. A Certificate subject to revocation under this paragraph remains valid until the Director, NPFC, issues a written decision revoking the Certificate.

(g) An applicant or certificant whose Certificate has been denied under paragraph (a) of this section or revoked under paragraph (b) or (c) of this section may request the Director, NPFC, to reconsider the denial or revocation. The certificant must submit a request for reconsideration, in writing, to the Director, NPFC, within 20 days of the date of the denial or revocation. The certificant must state the reasons for requesting reconsideration. The Director, NPFC, will generally issue a written decision on the request within 30 days of receipt, provided that, if the Director, NPFC, does not issue a decision within 30 days, the request for reconsideration will be deemed to have been denied, and the denial or revocation will be deemed to have been affirmed. Unless the Director, NPFC, issues a decision reversing the revocation, a revoked Certificate remains invalid. A decision by the Director, NPFC, affirming a denial or revocation, is final agency action.